

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ROBERT SANCHEZ,

Movant,

v.

No. 20-cv-0215 RB/SMV

UNITED STATES OF AMERICA,

Respondent.

ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL

THIS MATTER is before the Court on Movant's Motion for Appointment of Counsel [Doc. 3], filed on March 25, 2020. The Court will deny the Motion at this time.

Petitioner is a prisoner in the federal custody and seeks collateral review of his conviction and sentence under 28 U.S.C. § 2255. *See* [Doc. 1] at 1. This case is under preliminary review pursuant to Rule 4 of the Rules Governing Section 2255 Proceedings for the United States District Courts. There is no constitutional right to counsel in a § 2255 proceeding. *See Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987). Instead, when a hearing is not necessary, appointment of counsel in a § 2255 proceeding rests in the discretion of the court. *See United States v. Moya-Breton*, 439 F. App'x 711, 716 (10th Cir. 2011); *Swazo v. Wyo. Dep't of Corr. State Penitentiary Warden*, 23 F.3d 332, 333 (10th Cir. 1994).

Appointment of counsel in collateral review proceedings is governed by 18 U.S.C. § 3006A(a)(2)(B), which provides:

Whenever the United States Magistrate Judge or the court determines that the interests of justice so require, representation may be provided for any financially eligible person who . . . is seeking relief under section . . . 2255 of title 28.

18 U.S.C. § 3006A(a)(2)(B) (2018). The Court determines that the interests of justice do not require appointment of counsel at this stage of the proceedings. The Court will deny the Motion without prejudice to reconsideration in the event that the Court determines an evidentiary hearing is required under Rule 8 of the Rules Governing Section 2255.

IT IS ORDERED, ADJUDGED, AND DECREED that Movant's Motion for Appointment of Counsel [Doc. 3] is **DENIED without prejudice**. The Court may revisit this ruling should it determine that an evidentiary hearing is required under Rule 8 of the Rules Governing Section 2255 Proceedings.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge